

Questions and Answers Concerning Assessments & Fees Applicable to Telecommunications Providers Levied by the Public Service Commission of Wisconsin

Note: This item neither addresses other assessments (e.g., for energy and municipal utilities) levied by the Public Service Commission of Wisconsin, nor assessments or fees levied by other state of Wisconsin agencies (e.g., Wisconsin Department of Revenue, Wisconsin Department of Financial Institutions). The Wisconsin Department of Revenue has posted an informative publication titled “Understanding Wisconsin’s Utility Taxation and License Fees” that is available at <http://www.dor.state.wi.us/html/govpub.html#utility>. The Web page address for the Wisconsin Department of Financial Institutions is <http://www.wdfi.org/>.

Status of Commercial Mobile Radio Service (“CMRS”) Assessments

In an order dated December 20, 2001, in docket 05-GF-104, the Public Service Commission of Wisconsin (“Commission”) continued the suspension of the intrastate universal service fund (“USF”) assessment for Commercial Mobile Radio Service (“CMRS”) providers. This suspension, which was initiated in November 2000, will be effective at least until the Commission considers the issue of CMRS assessments in its biennial review of the USF rules in Wis. Admin. Code ch. PSC 160, which is currently underway in docket 1-AC-198. Earlier in 2001, Wis. Stat. § 196.202(2) was amended to state that CMRS providers shall be subject to intrastate USF assessment if the Public Service Commission of Wisconsin promulgates rules that designate CMRS providers as eligible to receive USF amounts under both the federal and state USF programs. CMRS providers remain obligated to provide USF assessable revenue information for 1999 (if not already filed) and during the suspension period and to pay for any USF assessments applicable to the May through October 2000 time period during which the USF assessment was applicable to these providers.

Q1. What telecommunications providers are subject to the Public Service Commission of Wisconsin’s (“Commission”) direct and remainder, intrastate telephone relay, and intrastate universal service fund (“USF”) assessments?

A1. Table 1 depicts assessments as applied to telecommunications providers by the Commission. The Commission has temporarily suspended assessment of CMRS providers for USF purposes from November 2000 through the present time.

Table 1

Entity Type (& Wisconsin statutory reference where noted)	Direct Assessment 196.85(1)	Remainder Assessment 196.85(2)	Telephone Relay Assessment 196.858	USF Assessments 196.218(3)¹
Incumbent Telecommunications Local Exchange Companies Other Than Cooperatives	Applicable	Applicable	Applicable	Applicable
Incumbent Telecommunications Cooperatives	Not Applicable	Not Applicable	Applicable	Applicable
Alternative Telecommunications Utility (ATU)-Cable Television ² 196.01(1d)(a), 196.203 ³	Not Applicable	Not Applicable	Not Applicable	Applicable (only to telecommunica- tions revenues)
ATU-Pay Telephone ⁴ 196.01(1d)(b), 196.203 ³	Not Applicable	Not Applicable	Not Applicable	Applicable
ATU-Resellers ⁵ 196.01(1d)(c), 196.203 ³	Applicable	Applicable	Applicable	Applicable
ATU-Other ⁶ 196.01(1d)(f), 196.203 ³	Applicable	Applicable	Applicable	Applicable
Commercial Mobile Radio Service (CMRS) Providers ⁷ 196.202	Not Applicable	Not Applicable	Not Applicable	Applicable May-October 2000. Not Applicable November 2000-Present ⁷
Telecommunications Carriers (Interexchange Carriers) 196.499	Applicable	Applicable	Applicable	Applicable
Competing Certificated Telecommunications Utilities 196.50	Applicable	Applicable	Applicable	Applicable

¹ As provided in Wis. Admin. Code ch. PSC 160, Wisconsin telecommunications providers with intrastate gross telecommunications revenues of less than \$200,000 during a previous calendar year are exempt from assessment. Wis. Admin. Code ch. PSC 160 was amended, effective May 1, 2000, to make CMRS providers subject to USF assessments. CMRS includes personal communications services (“PCS”), cellular, and paging providers. In an order dated December 20, 2001, in docket 05-GF-104, the Commission continued the suspension, which was initiated in November 2000, of the USF assessment for CMRS providers. The CMRS USF assessment suspension will continue at least until the Commission completes its biennial review of the USF rules in Wis. Admin. Code ch. PSC 160 (docket 1-AC-198).

² Cable television entities with minimal amounts of telecommunications service revenues per Wis. Stat. § 196.01(1r). This Commission generally does not regulate cable television entities with no telecommunications service revenues.

³ Under Wis. Stat. § 196.203(4), the Commission may impose any provision of Wis. Stat. chs. 196 or 201 on one or more, but not necessarily all, ATUs providing service in a relevant market.

⁴ Including prison pay phone providers (“PPP”).

⁵ Including provision of alternative operator service (“AOS”). The level of regulation shown for direct, remainder, and telephone relay assessments is that for resellers with \$200,000 or more of annual assessable revenues, as set forth in Wis. Admin. Code ch. PSC 168. For resellers with less than \$200,000 annual revenue, those entities are currently subject to an annual fee. The annual fee is \$100, effective January 1, 2001. All resellers, regardless of size, are subject to an initial certification fee upon application to the Commission for authorization to be an ATU-Reseller. The current initial certification fee is \$250.

⁶ Including alternate exchange carrier (“AEC”), competitive access provider (“CAP”), video distance learning (“VDL”), and other (“OTU”) providers. Level of regulation shown is that imposed on individual ATU-Other entities by interim order. Rulemaking docket 1-AC-186 is reviewing the Commission’s level of regulation for AECs (also known as competitive local exchange companies, or CLECs).

⁷ Including PCS, cellular, and paging providers. Wis. Admin. Code ch. PSC 160 was amended, effective May 1, 2000, to make CMRS providers subject to USF assessments. In an order dated December 20, 2001, in docket 05-GF-104, the Commission continued the suspension, which was initiated in November 2000, of the USF assessment for CMRS providers. The CMRS USF assessment suspension will continue at least until the Commission completes its biennial review of the USF rules in Wis. Admin. Code ch. PSC 160 (docket 1-AC-198).

Q2. *What revenues are subject to the remainder, intrastate telephone relay, and intrastate USF assessments?*

A2. Table 2 identifies general categories of revenues subject to the various assessments. Following the table is a listing of additional revenue types subject to (or exempt from) assessment; this listing is based on past inquiries received by the Commission staff.

Table 2

Assessment	Revenue Type			
	Regulated Intrastate Originating and Terminating in Wisconsin	Regulated Interstate Originating in Wisconsin	Miscellaneous Revenues (Rent, Directory, etc.) Attributable to Wisconsin ¹	Is a Deduction for Uncollectible Net Writeoff Activity (Current Year Writeoffs Less Collections) Allowed?
Remainder	Assessable	Assessable	Assessable	Yes
Telephone Relay	Assessable	Assessable	Assessable	Yes
Universal Service Fund ²	Assessable ³	Not Assessable	Not Assessable	No

¹ Including inbound interstate 800 and collect calls billed to customers in Wisconsin.

² Including the Commission USF programs (as specified in Wis. Admin. Code § PSC 160.05(1)), Educational Telecommunications Access Program ("TEACH"), UW-System, and DPI BadgerLink assessments.

³ Including intrastate payphone revenue (which was deregulated in 1997) and intrastate CMRS revenues, the latter because of an amendment to Wis. Admin. Code ch. PSC 160, effective May 1, 2000. In an order dated December 20, 2001, in docket 05-GF-104, the Commission continued the suspension, which was initiated in November 2000, of the USF assessment for CMRS providers. The CMRS USF assessment suspension will continue at least until the Commission completes its biennial review of the USF rules in Wis. Admin. Code ch. PSC 160 (docket 1-AC-198).

Additional Revenue Types Subject to Assessment (not necessarily an all-inclusive list).

- Offering for sale of the conveyance of voice, data, or other information at any frequency over any part of the electromagnetic spectrum, including the sale of service for collection, storage, forwarding, switching, and delivery incidental to such communication (per Wis. Stat. § 196.01(9m)).
- Regulated sale of customer premises equipment specifically for persons with disabilities (per Wis. Stat. § 196.01(9m)). (**Note:** The Commission has deregulated the sale of customer premises equipment, or CPE, other than CPE specifically for persons with disabilities.).
- Revenue from phone card sales (where the prepaid phone card company provides the underlying phone number associated with the phone card).
- Revenue from phone card sales (where the company not providing the underlying phone number also provides telecommunications service that is otherwise regulated by this Commission (e.g., a telecommunications reseller)).
- Sales to retail customers.
- Sales to wholesale customers.
- Revenue from calls to directory assistance.

- Federal subscriber line charge (subject to remainder and telephone relay assessments).
- Regulated provision of voice mail service.
- Deregulated provision of voice mail service (subject to USF assessments).
- Intrastate teleconferencing revenues.
- Interstate teleconferencing revenues (subject to remainder and telephone relay assessments).
- International telecommunications services originating in Wisconsin and inbound international 800 and collect calls billed to customers in Wisconsin (subject to remainder and telephone relay assessments).
- Revenue from Internet Service Providers (“ISPs”) associated with transport of the signal from end users to ISPs via switched Internet access.
- Revenue from ISPs associated with transport of the signal from end users to ISPs via unswitched Internet access (subject to remainder and telephone relay assessments).
- Intrastate 900 number services, regardless of the technology over which the service is delivered.
- Interstate 900 number services, regardless of the technology over which the service is delivered (subject to remainder and telephone relay assessments).
- Dark fiber service (subject to remainder, telephone relay, and USF assessments).

Additional Revenue Types Exempt from Assessment.

- Cable television service (per Wis. Stat. § 196.01(9m)).
- Broadcast service (per Wis. Stat. § 196.01(9m)).
- Customer premises equipment sale and maintenance (for other than persons with disabilities).
- Inside wire maintenance.
- Field service, hosting, hookup, and facilities charge revenues from ISP line of business.
- Intrastate payphone revenue (exempt from remainder and telephone relay assessments).
- Interstate payphone revenue (exempt from all assessments).
- Revenue from phone card sales not otherwise noted above.
- Federal subscriber line charge (exempt from USF assessments).
- Deregulated provision of voice mail service (exempt from remainder and telephone relay assessments).
- On-line or Internet-delivered information services (for other than 900 number services).
- Debit call revenues.

Q3. Why are regulated interstate revenues originating in Wisconsin subject to the remainder and telephone relay assessments?

A3. In *MCI Telecommunications Corp. v. State*, 209 Wis. 2d 310, 562 N.W. 2d 594 (1997), the Supreme Court of Wisconsin determined that the Commission had the authority to assess revenues from telephone calls originating in Wisconsin and terminating outside the state as well as other revenues attributable to Wisconsin for remainder assessment purposes pursuant to Wis. Stat. § 196.85(2). In effect, the Supreme Court approved assessments based upon connection to Wisconsin operations, not whether revenues were “jurisdictionally” Wisconsin intrastate revenues.

Q4. Are CMRS revenues (e.g., PCS, cellular, and paging) subject to assessment by the Commission?

A4. CMRS revenues are subject to the remainder and telephone relay assessments if the entity providing the CMRS service is also subject to the jurisdiction of the Commission (e.g., a telecommunications reseller). However, the Commission has, in previous decisions, granted special and individual consideration to a reseller to exclude its gross operating revenues generated from CMRS services, which are generally exempt from regulation under Wis. Stat. § 196.202, from the calculation of its assessable revenues for remainder and telephone relay assessment purposes.

Intrastate CMRS revenues are subject to the intrastate USF assessments because of an amendment to Wis. Admin. Code ch. PSC 160, effective May 1, 2000. In an order dated December 20, 2001, in docket 05-GF-104, the Commission continued the suspension, which was initiated in November 2000, of the USF assessment for CMRS providers. The CMRS USF assessment suspension will continue at least until the Commission completes its biennial review of the USF rules in Wis. Admin. Code ch. PSC 160 (docket 1-AC-198).

Q5. What are the current assessment rates for the remainder, telephone relay, and the four USF assessments?

A5. Assessment rates for the remainder assessment and the intrastate telephone relay assessment billings are established in the fall of each year.

The rates used for the fall of 2002 billings are as follows. With respect to the remainder assessment, the actual fiscal year (FY) 02 factor is .1107968588 percent. In addition, the advance FY 03 factor (approximately 10 percent higher than the actual FY 02 factor) is .117497029 percent. In the first year that a company is subject to the assessment, it is required to pay both the actual and advance assessment amounts. (In effect, in the first year a company's cash outlay for this assessment in 2002 would be estimated by multiplying the 2001 assessable revenues by .2282938878 percent, the sum of the actual FY 02 factor and the advance FY 03 factor.) In the fall of 2003, the advance FY 03 assessment amount will be trued up based on actual 2002 revenues subject to the assessment and the actual FY 03 factor.

The rates for the fall of 2002 billings for the telephone relay assessment are: actual FY 02 factor of .1169071356 percent; and advance FY 03 factor of .1405824515 percent. (In the first year that a company is subject to the assessment, a company's cash outlay for 2002 would be estimated similar to the remainder assessment noted above by multiplying the 2001 assessable revenues by .2574895871 percent.) The advance FY 03 amount will likewise be trued up in the fall of 2003.

Within the USF assessment category are four types of assessments:

1. The Commission USF programs - The current MONTHLY assessment rate, effective September 2002, is .01611 percent applied to annual revenues.
2. TEACH - The current MONTHLY assessment rate, effective September 2002, is .06191 percent applied to annual revenues.

3. UW-System - The current MONTHLY assessment rate, effective September 2002, is .00400 percent applied to annual revenues.
4. DPI BadgerLink - The current MONTHLY assessment rate, effective September 2002, is .00697 percent applied to annual revenues.

The above USF assessment rates are subject to change in the summer of 2003, once updated assessable revenues and funding information become known.

Q6. What are the recent historical remainder, telephone relay, and USF assessment rates?

A6. Recent historical remainder and telephone relay assessment rates are shown in Table 3:

Table 3

Assessment	Actual and Advance Remainder and Telephone Relay Assessment Rates (in Percent) for Various Time Periods					
	Fall 1997 Bill (Actual FY 97 and Advance FY 98 Factors)	Fall 1998 Bill (Actual FY 98 and Advance FY 99 Factors)	Fall 1999 Bill (Actual FY 99 and Advance FY 00 Factors)	Fall 2000 Bill (Actual FY 00 and Advance FY 01 Factors)	Fall 2001 Bill (Actual FY 01 and Advance FY 02 Factors)	Fall 2002 Bill (Actual FY 02 and Advance FY 03 Factors)
Remainder – Actual Factor	.14471385	.134515538	.1261300836	.1250617575	.1222536722	.1107968588
Remainder – Advance Factor	.15918524	.147967092	.1391678711	.1376427806	.1346114624	.117497029
Telephone Relay – Actual Factor	.12269714	.08295392	.0957726929	.1222458956	.1213052234	.1169071356
Telephone Relay – Advance Factor	.16283346	.18024362	.1673767296	.1571705882	.1328296871	.1405824515

Historical USF assessment rates (excluding the monthly assessment rate for Commission USF programs of .03475 percent for 1996) are shown in Table 4:

Table 4

USF Assessment	Monthly USF Assessment Rates (in Percent) for Various Time Periods									
	01/97- 12/97	01/98- 08/98	09/98	10/98- 06/99	07/99- 11/99	12/99- 07/00	08/00- 10/00	11/00- 09/01	10/01- 08/02	09/02- Present
Commission USF Programs	.02458	0	0	0	0	0	.02521	.03089	.01921	.01611
TEACH	N/A	N/A	.05089	.07789	.05480	.05480	.03121	.03824	.05948	.06191
UW-System	N/A	N/A	.01143	.01143	.00386	.00386	.00271	.00332	.00443	.00400
DPI BadgerLink	N/A	N/A	N/A	N/A	N/A	.00716	.00503	.00616	.00805	.00697

N/A = Not Applicable

Q7. Are telecommunications providers allowed to itemize any of the Commission's assessments on a separate line on their customers' bills?

A7. Table 5 details which Commission assessments may be itemized on the customers' bills of telecommunications providers. Note that assessments, fees, or taxes authorized and/or levied by federal agencies (e.g., interstate assessments authorized and/or levied by the Federal Communications Commission) or other state of Wisconsin agencies (e.g., sales taxes authorized and/or levied by the State of Wisconsin and/or counties within the state) may be covered by other applicable regulations and statutes.

Table 5

Assessment	Allowed to Itemize on Customers' Bills	Applicable Wisconsin Statute and/or Wisconsin Administrative Code Cites
Direct	Yes	Wis. Stat. § 196.85(1) (no prohibition)
Remainder	Yes	Wis. Stat. § 196.85(2) (no prohibition)
Telephone Relay	No	Wis. Stat. § 196.858(5) (prohibition concerning a separate line in a billing statement)
Commission USF Programs, TEACH, UW-System, and DPI BadgerLink	No (for all customers of non-price regulation companies, and non-access services provided to customers of price regulation companies (i.e., Wisconsin Bell, Inc. and Verizon North Inc.-Wisconsin Operations)); Yes (for access services provided to customers of price regulation companies)	Wis. Stat. §§ 196.196(2)(d), 196.196(2)(e), and 196.218(3)(e) and Wis. Admin. Code § PSC 160.15 (prohibition in Wis. Stat. § 196.218(3)(e) concerning establishment of a surcharge on customer bills (per the details in the cell immediately to the left); as provided in Wis. Stat. § 196.196(2)(d), surcharges are allowed for access service rates, including carrier common line charge or substitute rate elements, with prior customer notice, pursuant to Wis. Stat. § 196.196(2)(e))

Q8. Are telecommunications providers allowed to automatically adjust their customers' rates for any of the Commission's assessments?

A8. Table 6 details situations where the customers' rates of telecommunications providers may be adjusted automatically or may be prohibited by Wisconsin Statutes and/or Wisconsin Administrative Code. Note that assessments, fees, or taxes authorized and/or levied by federal agencies (e.g., interstate assessments authorized and/or levied by the Federal Communications Commission) or other state of Wisconsin agencies (e.g., sales taxes authorized and/or levied by the State of Wisconsin and/or counties within the state) may be covered by other applicable regulations and statutes.

Table 6

Assessment	Allowed to Automatically Adjust Customers' Rates		Applicable Wisconsin Statute and/or Wisconsin Administrative Code Cites
	Incumbent Telecommunications Local Exchange Companies	Other Telecommunications Providers	
Direct	No	Yes (due to lack of Commission's rate jurisdiction)	Wis. Stat. § 196.85(1) (no prohibition)
Remainder	No	Yes (due to lack of Commission's rate jurisdiction)	Wis. Stat. § 196.85(2) (no prohibition)
Telephone Relay	No	Yes (due to lack of Commission's rate jurisdiction)	Wis. Stat. § 196.858(5) (prohibition concerning a separate line in a billing statement)
Commission USF Programs	No (for all customers of non-price regulation companies, and non-access services provided to customers of price regulation companies (i.e., Wisconsin Bell, Inc. and Verizon North Inc.-Wisconsin Operations)); Yes (for access services provided to customers of price regulation companies)	Yes (due to lack of Commission's rate jurisdiction)	Wis. Stat. §§ 196.196(2)(d), 196.196(2)(e), and 196.218(3)(e) and Wis. Admin. Code § PSC 160.15 (prohibition in Wis. Stat. § 196.218(3)(e) concerning establishment of a surcharge on customer bills (per the details in the cell two columns to the left); as provided in Wis. Stat. § 196.196(2)(d), surcharges are allowed for access service rates, including carrier common line or substitute rate elements, with prior customer notice, pursuant to Wis. Stat. § 196.196(2)(e))
TEACH, UW-System, and DPI BadgerLink	No (for non-local exchange services); Yes (for all local exchange services)	Yes (due to lack of Commission's rate jurisdiction)	Wis. Stat. § 196.218(3)(f) (provides that telecommunications utilities that provide local exchange service may make adjustments to such rates for contributions to TEACH, UW-System, and DPI BadgerLink)

Q9. In what form are assessable revenues reported to the Commission?

A9. Assessable revenues information is contained in various annual reports filed by telecommunications providers. **(The due date for a particular year's annual report is April 1 of the following year. Check the Commission's web page for availability of the appropriate year's annual report program. Do not use a prior year's annual report program for reporting a subsequent calendar year's activity.)**

Incumbent local exchange companies ("LECs") report remainder, telephone relay, and USF assessable revenue information on p. 43 of the LEC annual report. Help is available concerning the two schedules on p. 43 by clicking on the Help, Help Topics List dropdown in the program. The program is available at http://psc.wi.gov/telecom/annlrpt/ind_annl.htm.

Resellers are required to file the Alternative Telecommunications Utility-Telecommunications Reseller ("RES") annual report. Page 6 of the report requests information concerning remainder, telephone relay, and USF assessable revenues. Help is available concerning p. 6 by clicking on the Help, Help Topics List dropdown in the program. The program is available at http://psc.wi.gov/telecom/annlrpt/ind_annl.htm.

Cable television telecommunications service providers are required to file the Alternative Telecommunications Utility-Cable Television Telecommunications Service Provider ("CTV") annual report. Although the annual report form does request telecommunications service revenue information on p. 6 of the form, no specific calculation of assessable revenues is included due to the minimal amount of telecommunications service revenue reported to date. The program is available at http://psc.wi.gov/telecom/annlrpt/ind_annl.htm.

Competitive local exchange companies ("CLECs") and video distance learning ("VDL") providers are required to file the Alternative Telecommunications Utility-Other Telecommunications Provider ("OTH") annual report. Page 20 of the report requests information concerning remainder, telephone relay, and USF assessable revenues. Help is available concerning p. 20 by clicking on the Help, Help Topics List dropdown in the program. The program is available at http://psc.wi.gov/telecom/annlrpt/ind_annl.htm.

Interexchange carriers and ATU-Other entities (not required to file the OTH annual report) are required to file an Interexchange Carriers and Other Selected Alternative Telecommunications Utility-Other Telecommunications Provider Entities ("ARW") annual report. Page 6 of the report requests information concerning remainder, telephone relay, and USF assessable revenues. Help is available concerning p. 6 by clicking on the Help, Help Topics List dropdown in the program. The program is available at http://psc.wi.gov/telecom/annlrpt/ind_annl.htm.

CMRS providers are required to file a Commercial Mobile Radio Service Provider ("CMR") annual report. Page 6 of the report requests information concerning USF assessable revenues. Help is available concerning p. 6 by clicking on the Help, Help Topics List dropdown in the program. The program is available at http://psc.wi.gov/telecom/annlrpt/ind_annl.htm. CMRS providers remain obligated to file the CMR annual report during the suspension period from November 2000 through the present time.

Q10. How do I view relevant information concerning assessments in the Wisconsin Statutes and/or Wisconsin Administrative Code on the Internet?

A10. The relevant Wisconsin statute and administrative code cites and links are as follows:

Direct assessment - Wis. Stat. § 196.85(1)
Remainder assessment - Wis. Stat. § 196.85(2)
Telephone relay assessment - Wis. Stat. § 196.858
USF assessments - Wis. Stat. § 196.218(3)
Other Wis. Stat. ch. 196 references
<http://www.legis.state.wi.us/rsb/stats.html>

Assessment of Costs - Wis. Admin. Code ch. PSC 5
<http://www.legis.state.wi.us/rsb/code/psc/psc005.pdf>

USF rules - Wis. Admin. Code ch. PSC 160
<http://www.legis.state.wi.us/rsb/code/psc/psc160.pdf>
In an order dated December 20, 2001, in docket 05-GF-104, the Commission continued the suspension, which was initiated in November 2000, of the USF assessment for CMRS providers. The CMRS USF assessment suspension will continue at least until the Commission completes its biennial review of the USF rules in Wis. Admin. Code ch. PSC 160 (docket 1-AC-198).

Telecommunications resellers and resale rules - Wis. Admin. Code ch. PSC 168
<http://www.legis.state.wi.us/rsb/code/psc/psc168.pdf>

Q11. Who should I contact if I have further questions concerning telecommunications assessments or fees levied by the Commission?

A11. General questions concerning telecommunications assessments and fees should be directed to Kevin Klingbeil at (608) 267-9504 or by e-mail at kevin.klingbeil@psc.state.wi.us.

If you have specific questions concerning a direct, remainder or telephone relay bill that you have received, please contact Jack Parrino at (608) 267-7709 or by e-mail at jack.parrino@psc.state.wi.us.

Specific questions concerning a USF assessment bill that you have received should be directed to Diane Sippl at Williams Young, LLC at (608) 270-2979 or by e-mail at sippld@wya.com.

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